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2011 MAY 25 AM 10:59 ✓

SANDRA K MARKHAM  
CLERK

BY: ~~Kelly Gresham~~

6 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

7 **IN AND FOR THE COUNTY OF YAVAPAI**

8 **STATE OF ARIZONA,**

9 Plaintiff,

10 vs.

11 **STEVEN CARROLL DEMOCKER,**

12 Defendant.

**CAUSE NO. P1300CR201001325**

**STATE'S REPLY RE: SUBPOENA  
DUCES TECUM**

Assigned to Hon. Warren R. Darrow  
Division PTB

14 The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and  
15 her deputy undersigned replies to Defendant's objection that the State failed to show "substantial  
16 need" in seeking a court order for a subpoena addressed to Experian.

17 **MEMORANDUM OF POINTS AND AUTHORITIES**

18 Once a criminal case begins, the parties have a continuing duty to provide additional  
19 disclosure pursuant to Rule 15.6, Arizona Rules of Criminal Procedure. The State is trying to fulfill  
20 its duty faithfully under this rule. Rule 15.6(d) A.R.C.P. allows final disclosure to be completed  
21 seven (7) days prior to trial unless otherwise permitted by the court. In this case the court has set the  
22 disclosure deadline for August 8, 2011.

23 Rule 15.6(a) A.R.C.P. mandates that each party has a continuing duty to make additional  
24 disclosure of **new or different information** as it is discovered (emphasis added). The undersigned  
25 could not find any authority defining "substantial need" under Rule 15.2(g) A.R.C.P. but relevance  
26

1 and proof of motive establishes substantial need. This information sought is not new but it will be  
2 used differently in the second trial.

3 ***I. Court Order for a Subpoena directed to Experian***

4 On multiple occasions the State has acknowledged the investigation in this case is on-  
5 going. This includes a very thorough review of Defendant's financial records. In many  
6 instances, there has been confusion regarding the Defendant's numerous bank accounts,  
7 investments and credit card accounts. The Defendant had a practice of opening new credit card  
8 accounts with balance transfers from an existing account or simply transferring an existing  
9 balance to another line of credit to obtain a more favorable interest rate or to delay making a  
10 payment. The relevance of the Experian credit report is necessary to help the jury understand the  
11 complexities of Defendant's financial web and Defendant's knowledge of his financial situation.

12 The State has alleged Defendant was financially motivated in the killing of Carol Kennedy  
13 at the first trial. Defendant alleged that he was solvent and had more than enough money at the  
14 time of her death. The State knew in 2008 that the Defendant downloaded his own credit report  
15 from Experian on February 18, 2008. The State was unaware of the relevance of Defendant's  
16 Experian credit report in the first trial. Recently it was learned that Defendant's Experian credit  
17 report is relevant and significant evidence for the jury to refute Defendant's claims of solvency.

18 In preparing for the second trial Defendant's financial motive is even more critical than  
19 first realized. The Experian credit report is one more thread of evidence illuminating Defendant's  
20 knowledge of his financial circumstances and is relevant to the State's theory of the case.

21 In P1300CR20081339 the State disclosed the Experian report (Bates #7595-7632) in the  
22 State's 23<sup>rd</sup> Supplemental Disclosure dated July 6, 2009 and again in P1300CR201001325 in the  
23

1 State's Initial Disclosure dated January 10, 2008. The parties were aware of the subject credit  
2 report for some time so a notice or surprise claim is without merit.

3 The State is only requesting a court order to obtain a *certified* copy of the Experian credit  
4 report so that a custodian of records need not be subpoenaed for the trial. This request will assist  
5 judicial economy by eliminating a witness in what will be a lengthy trial.  
6

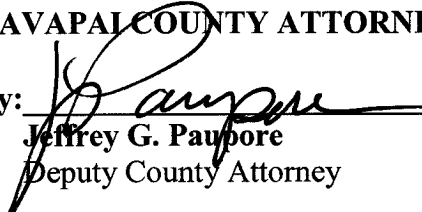
7 **CONCLUSION**

8 The State is seeking a certified copy of the Experian report. This report is evidence of the  
9 Defendant's financial situation just months before the murder of his ex-wife, Carol Kennedy.  
10 This credit report is materially necessary to show that the Defendant had personal knowledge of  
11 the seriousness of his financial circumstances. The Experian credit report will aid the jury in  
12 understanding the complexities of Defendant's use of transferring balances on multiple credit  
13 cards, in an effort to "float" substantive debt.  
14

15 The above circumstances make the showing of the State's substantial need in the  
16 preparation and presentation of the State's case in chief.  
17

18 **RESPECTFULLY SUBMITTED** this 25<sup>th</sup> day of May, 2011.  
19

20  
21 **Sheila Sullivan Polk**  
**YAVAPAI COUNTY ATTORNEY**

22 By:   
23 **Jeffrey G. Paupore**  
24 Deputy County Attorney

25 **COPY** of the foregoing **Emailed** this  
26 25<sup>th</sup> day of May, 2011, to:

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24   
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